REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SPECIAL FIRST DIVISION

THE TREASURER OF THE CITY OF MANILA,
Petitioner,

- **versus** -

SWEDISH MATCH PHILIPPINES, INC.,
Respondent.

CTA AC NO. 198

Members:

DEL ROSARIO, *P.J., Chairperson*,
UY, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
OCT 11 2018 : 11:11am

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DECISION

DEL ROSARIO, P.J.:

This is a Petition for Review filed on March 8, 2018 by petitioner Treasurer of the City of Manila, praying that the Court reverse and set aside the Decision dated June 15, 2017 and the Order dated January 15, 2018 rendered by the Regional Trial Court (RTC) of Manila, Branch 55, in Civil Case No. 09-120696 entitled *Swedish Match Philippines, Inc. vs. The Treasurer of the City of Manila*.

In the assailed Decision, the RTC ordered petitioner herein to refund or treat as a tax credit in favor of respondent herein the taxes paid under Section 21 of the Manila Revenue Code, as amended. The dispositive portion of the assailed Decision reads:

> "**WHEREFORE**, premises considered, judgment is hereby rendered for the Petitioner, and against the Respondent. Respondent is hereby ordered to **REFUND**, or in the alternative, treat as a **TAX CREDIT** in favor of petitioner the taxes paid under Section 21 of the Manila Revenue Code as amended, for the first quarter and second quarter of 2007 in the amount of Two Hundred Sixty Four Thousand Two Hundred Sixty One and 84/100 [Pesos] (₱264,261.84).

SO ORDERED."

In the assailed Order, the RTC likewise denied petitioner's Motion for Reconsideration of the assailed Decision filed on July 26, 2017. The dispositive portion of which reads:

> "Premises considered, the instant Motion for Reconsideration is hereby DENIED for lack of merit.
>
> SO ORDERED."

THE PARTIES

Petitioner is the Treasurer of the City of Manila tasked with the implementation of the City's Revenue Code, as well as the collection and assessment of business taxes, license fees and permit fees within the said City. Petitioner may be served with summons and other processes of this Court at the Manila City Hall.[1]

Respondent is a domestic corporation duly organized under the laws of the Philippines, with principal office address at Laguna Technopark-Special Economic Zone, 104 Technology Avenue, Biñan, Laguna, with capacity to sue and be sued. It may be served with orders and processes of the Court through Siguion Reyna Montecillo Ongsiako Law Offices at 4th and 6th Floors Citibank Center, 8741 Paseo de Roxas, Makati City.[2]

THE FACTS

On January 19, 2007, petitioner assessed respondent business taxes for the first and second quarters of the year 2007 under Section 21 of Ordinance No. 7794, otherwise known as the Manila Revenue Code, and under Ordinance Nos. 7988 and 8011, amending the Manila Revenue Code, and the latter paid the same, broken down as follows:[3]

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[1] Par. 2 of respondent's Petition for Refund dated January 21, 2009 which was admitted in par. 1 of petitioner's Answer dated June 27, 2011, RTC Records, pp. 1, and 232.
[2] Par. 1 of respondent's Petition for Refund dated January 21, 2009 in relation to Par. 2 of the Answer, RTC Records, pp. 1, and 232.
[3] Par. 3 of respondent's Petition for Refund dated January 21, 2009 in relation to Par. 2 of the Answer, RTC Records, pp. 1-2, and 232; Annexes A and B, RTC Records, pp. 18-19.

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Date Paid	Amount	Quarter Covered
January 22, 2007	₱132,130.92	1Q-2007
April 19, 2007	₱132,130.92	2Q-2007
TOTAL	₱264,261.84	

Section 14 of the Manila Revenue Code provides for tax on manufacturers, assemblers and other processors of articles of commerce, to wit:

> "Section 14. *Tax on Manufacturers, Assemblers and other Processors* – There is hereby imposed graduated tax on manufacturers, assemblers, repackers, processors, brewers, distillers, rectifiers and compounders of liquors, distilled spirits, and wines or manufacturers of any article of commerce of whatever kind or nature, in accordance with the following schedule xxx"[4]

Section 21 of the Manila Revenue Code, on the other hand, imposes tax on businesses subject to the excise, value-added or percentage taxes under the National Internal Revenue Code. Sec. 21 states:

> "Sec. 21. *Tax on Business Subject to the Excise, Value-Added or Percentage Taxes Under the NIRC* – On any of the following businesses and articles of commerce subject to the excise, value-added or percentage taxes under the National Internal Revenue Code hereinafter the NIRC, as amended, a tax of fifty percent (50%) of one percent (1%) per annum on the gross sales or receipts of the preceding calendar year is hereby imposed:
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> A) On persons who sell goods and services in the course of trade or business; and those who import goods whether for business or otherwise, as provided for in sections 100 to 103 of the NIRC as administered and determined by the Bureau of Internal Revenue pursuant to the pertinent provisions of said code xxx"[5]

The rates of the tax imposed under Section 14 and the provisions of Section 21 have changed when the Manila Revenue Code was amended by Ordinance No. 7988 in the year 2000 and

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[4] Par. 5 of respondent's Petition for Refund dated January 21, 2009 which was not specifically denied in par. 3 of petitioner's Answer dated June 27, 2011, RTC Docket, pp. 2, and 232; thus, considered admitted pursuant to Section 11 of Rule 8, Rules of Court.

[5] Par. 7 of respondent's Petition for Refund dated January 21, 2009 which was admitted in par. 4 of petitioner's Answer dated June 27, 2011, RTC Docket, pp. 3, and 232.

Ordinance No. 8011 in the year 2001.[6] Ordinance No. 7988 was approved by the Mayor of the City of Manila on February 25, 2000 and was published on May 22 and 24, 2000. Ordinance No. 8011 was published on February 28, 2001 in Malaya, March 1, 2001 in Manila Standard, and March 8, 2001 in Pinoy Times.[7]

On January 15, 2009, respondent filed a letter dated January 14, 2009[8] claiming a refund of business taxes paid under Section 21 of the Manila Revenue Code.[9] In said letter, respondent argued that Ordinance Nos. 7988 and 8011, which amended the Manila Revenue Code, could not be the basis for the collection of business taxes against respondent as the same have no legal force and effect.

Alleging petitioner's inaction on its letter,[10] respondent filed a Petition for Review on January 27, 2009, before the RTC of Manila, Branch 55.[11]

On February 16, 2009, petitioner filed a Motion to Dismiss claiming that the RTC has no jurisdiction over the subject matter of the Petition for Refund as the amount subject of the Petition for Review is ₱264,261.81, which is less than ₱400,000.00; hence, the same falls under the jurisdiction of the Metropolitan Trial Court (MTC).[12]

On August 26, 2009, the RTC through an Order given in open court denied petitioner's Motion to Dismiss on the ground that *"there appears to be another issue that the parties have to settle."*[13]

On June 28, 2011, petitioner filed its Answer[14] with the following Affirmative Defenses: (i) RTC has no jurisdiction over the subject

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[6] Par. 6 of respondent's Petition for Refund dated January 21, 2009 in relation to par. 3 of the Answer, RTC Records, pp. 2, and 232.
[7] Par. 9 of respondent's Petition for Refund dated January 21, 2009 which was admitted in par. 6 of petitioner's Answer dated June 27, 2011, RTC Docket, pp. 3, and 233.
[8] Annex "C", RTC Records, pp. 20-28.
[9] Par. 10 of respondent's Petition for Refund dated January 21, 2009 which was admitted in par. 7 of petitioner's Answer dated June 27, 2011, RTC Records, pp. 3, and 233.
[10] Par. 11 of respondent's Petition for Refund dated January 21, 2009, RTC Records, p. 4.
[11] RTC Records, pp. 1-16.
[12] RTC Records, pp. 79-82.
[13] RTC Records, p. 144.

matter of the claim; and, (ii) respondent failed to comply with a condition precedent, which is the filing of a written protest contesting the assessment.

On February 4, 2014, petitioner filed its Pre-Trial Brief[15] while respondent filed its Pre-Trial Brief on November 13, 2009.[16]

On June 4, 2015, respondent filed a Motion for Summary Judgment alleging that the Petition for Refund and the Answer with Affirmative Defenses show that there are no material facts disputed by petitioner.[17]

On December 22, 2016, the RTC submitted the case for decision finding that there is no genuine issue as to any material fact raised in the pleadings, and the only issue is whether respondent is entitled to a tax refund.[18]

On July 19, 2017, petitioner received the assailed Decision granting the Petition for Refund, and ordering petitioner to refund, or in the alternative, treat as a tax credit in favor of respondent the taxes paid under Section 21 of the Manila Revenue Code, as amended for the first and second quarters of 2007 in the amount of ₱264,261.84.[19]

Aggrieved, petitioner filed a Motion for Reconsideration on July 26, 2017.[20] On February 19, 2018, petitioner received the assailed Order denying its Motion for Reconsideration.[21]

The present Petition for Review was filed on March 8, 2018.[22]

Respondent filed its Comment/Opposition (Re: Petition for Review dated 5 March 2018) on April 24, 2018.[23]

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[14] RTC Records, pp. 232-237.
[15] RTC Records, pp. 483-486.
[16] RTC Records, pp. 145-149.
[17] RTC Records, pp. 578-580.
[18] RTC Records, pp. 593-595.
[19] RTC Records, pp. 598-599.
[20] RTC Records, pp. 602-605.
[21] RTC Records, pp. 623-624.
[22] CTA Docket, pp. 8-15.
[23] CTA Docket, pp. 29-37.

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With the filing of petitioner's Memorandum on June 21, 2018[24] and respondent's Memorandum on June 22, 2018,[25] the case was submitted for decision on August 1, 2018.[26]

THE PARTIES' ARGUMENTS

Petitioner claims that the RTC has no jurisdiction over the subject matter of the original petition filed by respondent.

Petitioner, quoting from its Answer filed before the RTC, asserts that the amount being asked to be refunded by respondent is ₱264,261.84, which amount falls exclusively within the jurisdiction of the MTC as provided under the Revised Rules on Summary Procedure contained in Administrative Matter No. 02-11-09-SC as well as *Batas Pambansa* (BP) Blg. 129, as amended by Republic Act (RA) No. 7691.[27]

Petitioner cites *China Banking Corporation vs. City Treasurer of Manila*,[28] where the Supreme Court ruled that authority to exercise either original or appellate jurisdiction over local tax cases depends on the amount of the claim. In the said case, the Supreme Court explained that in cases where the amount sought to be refunded is below the jurisdictional amount of the RTC, MTCs are clothed with ample authority to rule on such claims.

Citing *Padlan vs. Spouses Dinglasan*,[29] petitioner argues that the nature of an action, as well as which court or body has jurisdiction over it, is determined based on the allegations in the complaint of the plaintiff; regardless of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.

Respondent counter-argues that the RTC did not err in ruling that it had jurisdiction over the present case since the relief prayed for

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[24] CTA Docket, pp. 45-49.
[25] CTA Docket, pp. 50-61.
[26] CTA Docket, p. 68.
[27] AN ACT EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA, BLG. 129, OTHERWISE KNOWN AS THE "JUDICIARY REORGANIZATION ACT OF 1980."
[28] G.R. No. 204117, July 1, 2015.
[29] G.R. No. 180321, March 20, 2013.

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by respondent is one for specific performance, that is, the enforcement of a final and executory decision of the Supreme Court in *The Treasurer of the City of Manila vs. Swedish Match Philippines, Inc.*[30] where it was ruled that the tax imposed against Swedish Match Philippines, Inc. under Section 14 of the Manila Revenue Code as a manufacturer of goods, and additionally taxed under Section 21 (a) of the same code on the business of selling manufactured goods constitutes double taxation. Respondent posits that actions for specific performance are incapable of pecuniary estimation, and that exclusive jurisdiction thereof falls within the RTC. It insists that the claim for sum of money was merely incidental to the principal action.

ISSUE

The sole issue in the present controversy is whether the RTC has jurisdiction over respondent's claim for refund of taxes paid under Section 21 of the Manila Revenue Code, as amended, for the first and second quarters of 2007 in the amount of ₱264,261.84.

THE COURT'S RULING

Petition for Review before this Court was timely filed

Section 7 of RA No. 1125, as amended by RA No. 9282[31] enumerates the jurisdiction of the Court of Tax Appeals (CTA), which includes the power to review decisions or orders promulgated by the RTC in local tax cases.

Corollary thereto, Section 3, Rule 8 of the Revised Rules of the CTA[32] mandates that an aggrieved party may file a case before the CTA thirty (30) days after its receipt of a decision or order of the RTC.

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[30] G.R. No. 175577.

[31] Sec. 7. Jurisdiction. - The CTA shall exercise:

> a. Exclusive appellate jurisdiction to review by appeal, as herein provided:
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> xxx xxx xxx
>
> > 3. Decisions, orders or resolutions of the Regional Trial Courts in local tax cases originally decided or resolved by them in the exercise of their original or appellate jurisdiction; xxx

[32] SEC. 3. *Who may appeal; period to file petition.* – (a) A party adversely affected by a decision, ruling or the inaction of the Commissioner of Internal

Records reveal that petitioner received the assailed Order of the RTC on February 19, 2018. It has thirty (30) days or until March 20, 2018 to file a petition for review with the CTA. Since the Petition for Review was seasonably filed on March 8, 2018, the Court may take cognizance of the same.

The RTC is bereft of jurisdiction to resolve the controversy

According to respondent, the main relief it prayed for is one for specific performance whereby it prays the enforcement of a final and executory judgment by the Supreme Court, and the money claim is merely incidental thereto.

Respondent's argument is untenable.

A perusal of respondent's Petition for Refund before the RTC discloses that it prayed for the following reliefs:

> a) DECLARE that petitioner Swedish March is not liable for business taxes it paid for the first quarter and second quarter of 2007 under Section 21 of the City of Manila's Revenue Code, as amended; and,
>
> b) Order the REFUND, or in the alternative TAX CREDIT, to petitioner of the taxes paid under Section 21 of the Manila Revenue Code, as amended, for the first quarter and second quarter of 2007 in the amount of Two Hundred Sixty Four Thousand Two Hundred Sixty One and 84/100 (₱264,261.84).

The foregoing clearly belies respondent's allegation that the principal cause of action in this case is one for a specific performance. To be sure, **the Petition for Refund even emphasized that it was filed pursuant to Section 196 of the Local**

Revenue on disputed assessments or claims for refund of internal revenue taxes, or by a decision or ruling of the Commissioner of Customs, the Secretary of Finance, the Secretary of Trade and Industry, the Secretary of Agriculture, or **a Regional Trial Court in the exercise of its original jurisdiction may appeal to the Court by petition for review filed within thirty days after receipt of a copy of such decision or ruling, or expiration of the period fixed by law for the Commissioner of Internal Revenue to act on the disputed assessments.** In case of inaction of the Commissioner of Internal Revenue on claims for refund of internal revenue taxes erroneously or illegally collected, the taxpayer must file a petition for review within the two-year period prescribed by law from payment or collection of the taxes.

Government Code (LGC) of 1991.[33] The pertinent portion of the Petition for Refund states:

"**<u>Nature of the Petition</u>**

3. This is a petition pursuant to Section 196 of the Local Government Code of 1991 [hereinafter LGC], for claim of refund of business taxes erroneously assessed and collected by respondent as follows:

xxx"

Section 196 of the LGC governs the rules on claiming for refund or tax credit of local business taxes erroneously or illegally collected, *viz.*:

> "**Section 196.** *Claim for Refund or Tax Credit.* - No case or proceeding shall be maintained in any court for the recovery of any tax, fee, or charge erroneously or illegally collected until a written claim for refund or credit has been filed with the local treasurer. No case or proceeding shall be entertained in any court after the expiration of two (2) years from the date of the payment of such tax, fee, or charge, or from the date the taxpayer is entitled to a refund or credit."

In *City of Manila vs. Cosmos Bottling Corporation*,[34] the Supreme Court had the occasion to discuss the requisites of prosecuting an action for refund under Section 196 of the LGC:

> "xxx, Section 196 may be invoked by a taxpayer who claims to have erroneously paid a tax, fee or charge, or that such tax, fee or charge had been illegally collected from him. The provision requires the taxpayer to first file a written claim for refund before bringing a suit in court which must be initiated within two years from the date of payment. By necessary implication, **the administrative remedy of claim for refund with the local treasurer must be initiated also within such two-year prescriptive period but before the judicial action**." (Boldfacing supplied)

A claim for refund or credit of erroneously or illegally paid local business tax paid shall be initiated by filing a written administrative claim for refund and thereafter, by bringing a suit in court, both within the two (2)-year period reckoned from the date of payment of the local business tax.

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[33] RTC Records, p. 1.
[34] G.R. No. 196681, June 27, 2018.

BP Blg. 129, as amended by RA No. 7691, specifies the respective jurisdiction of Regional Trial Courts (RTCs) and Metropolitan Trial Courts (MeTCs), Municipal Trial Courts (MTCs) and Municipal Circuit Trial Courts (MCTCs). The pertinent provisions thereof read:

> "Section 1. Section 19 of Batas Pambansa Blg. 129, otherwise known as the 'Judiciary Reorganization Act of 1980', is hereby amended to read as follows:
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> 'Sec. 19. *Jurisdiction in civil cases.* – Regional Trial Courts shall exercise exclusive original jurisdiction.
>
> xxx xxx xxx
>
> '(8) In all other cases in which the demand, exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs or the value of the property in controversy exceeds One hundred thousand pesos (P100,000.00) or, in such other cases in Metro Manila, where the demand exclusive of the abovementioned items exceeds Two Hundred thousand pesos (P200,000.00).'
>
> xxx xxx xxx
>
> SEC.3. Section 33 of the same law is hereby amended to read as follows:
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> 'Sec. 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases. – Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:
>
> '(1) Exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed One hundred thousand pesos (P100,000.00) or, in Metro Manila where such personal property, estate, or amount of the demand does not exceed Two hundred thousand pesos (P200,000.00), exclusive of interest, damages of whatever kind, attorney's fees, litigation expenses, and costs, the amount of which must be specifically alleged: Provided, That interest, damages of whatever kind, attorney's fees, litigation expenses, and costs shall be included in the determination of the filing fees: Provided, further, That where there are several claims or causes of actions between the same or different parties, embodied in the same complaint, the amount of the demand shall be the totality of the claims in all the causes of action, irrespective of whether the causes of action arose out of the same or different transactions; xxx'
>
> xxx xxx xxx

> SEC.5. After five (5) years from the effectivity of this Act, the jurisdictional amounts mentioned in Sec. 19(3), (4), and (8); and Sec. 33(1) of Batas Pambansa Blg. 129 as amended by this Act, shall be adjusted to Two hundred thousand pesos (P200,000.00). Five (5) years thereafter, such jurisdictional amounts shall be adjusted further to Three hundred thousand pesos (P300,000.00): Provided, however, **That in the case of Metro Manila, the abovementioned jurisdictional amounts shall be adjusted after five (5) years from the effectivity of this Act to Four hundred thousand pesos (P400,000.00).**" (*Boldfacing supplied*)

Based on the afore-quoted provisions of BP Blg. 129, as amended by RA No. 7691, in Metro Manila, RTCs have exclusive original jurisdiction over an action if the amount involved exceeds ₱400,000.00, but if the claim does not exceed ₱400,000.00, the exclusive original jurisdiction is vested with the MeTCs.

In *China Banking*, the case cited by petitioner, the Supreme Court categorically ruled that in cases where the amount sought to be refunded is below the jurisdictional amount of the RTCs, the MeTCs, MTCs, and MCTCs are clothed with ample authority to rule on such claims, *viz.*:

> "Thus, although the Court in *Yamane* recognized that the RTC exercised its original jurisdiction over cases decided by a local treasurer, it was quick to point out that with the advent of Republic Act (*R.A.*) No. 9282, the jurisdiction of the RTC over such cases is no longer simply original and exclusive. The Court explained:
>
>> From these premises, it is evident that the stance of the City Treasurer is correct as a matter of law, and that the proper remedy of the Corporation from the RTC judgment is an ordinary appeal under Rule 41 to the Court of Appeals. However, we make this pronouncement subject to two important qualifications. First, in this particular case there are nonetheless significant reasons for the Court to overlook the procedural error and ultimately uphold the adjudication of the jurisdiction exercised by the Court of Appeals in this case. **<u>Second, the doctrinal weight of the pronouncement is confined to cases and controversies that emerged prior to the enactment of Republic Act No. 9282</u>, the law which expanded the jurisdiction of the Court of Tax Appeals** (CTA).
>>
>> Republic Act No. 9282 definitively proves in its Section 7(a)(3) that the CTA exercises exclusive

> appellate jurisdiction to review on appeal decisions, orders or resolutions of the Regional Trial Courts in local tax cases original decided or resolved by them in the exercise of their original or appellate jurisdiction. Moreover, the provision also states that the review is triggered "by filing a petition for review under a procedure analogous to that provided for under Rule 42 of the 1997 Rules of Civil Procedure.'
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> Republic Act No. 9282, however, would not apply to this case simply because it arose prior to the effectivity of that law. To declare otherwise would be to institute a jurisdictional rule derived not from express statutory grant, but from implication. The jurisdiction of a court to take cognizance of a case should be clearly conferred and should not be deemed to exist on mere implications, and this settled rule would be needlessly emasculated should we declare that the Corporation's position is correct in law.
>
> [Emphases and Underscoring Supplied]

Clearly, with the passage of R.A. No. 9282, the authority to exercise either original or appellate jurisdiction over local tax cases depended on the amount of the claim. In cases where the RTC exercises appellate jurisdiction, it necessarily follows that there must be a court capable of exercising original jurisdiction – otherwise there would be no appeal over which the RTC would exercise appellate jurisdiction. The Court cannot consider the City Treasurer as the entity that exercises original jurisdiction not only because it is not a 'court' within the context of Batas Pambansa (*B.P.*) Blg. 129, but also because, as explained above, 'B.P. 129 expressly delineates the appellate jurisdiction of the Regional Trial Courts, confining as it does said appellate jurisdiction to cases decided by Metropolitan, Municipal, and Municipal Circuit Trial Courts.' Verily, unlike in the case of the CA, B.P. 129 does not confer appellate jurisdiction on the RTC over rulings made by non-judicial entities. **The RTC exercises appellate jurisdiction only from cases decided by the Metropolitan, Municipal, and Municipal Circuit Trial Courts in the proper cases.** The nature of the jurisdiction exercised by these courts is original, considering it will be the first time that a court will take judicial cognizance of a case instituted for judicial action. **Indeed, in cases <u>where the amount sought to be refunded is below the jurisdictional amount of the RTC</u>, <u>the Metropolitan, Municipal, and Municipal Circuit Trial Courts are clothed with ample authority to rule on such claims.</u> As Section 33(1), B.P. 129, as amended provides:**

> Sec. 33. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Civil Cases. – Metropolitan Trial

> Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:
>
> (1) Exclusive original jurisdiction over civil actions and probate proceedings, testate and intestate, including the grant of provisional remedies in proper cases, where the value of the personal property, estate, or amount of the demand does not exceed One hundred thousand pesos (₱100,000.00) or, in Metro Manila where such personal property, estate, or amount of the demand does not exceed Two hundred thousand pesos (₱200,000.00) x x x x
>
> xxx xxx xxx
>
> Lest it be misunderstood, this Court is not reversing its pronouncements in *Coca-Cola Bottlers Philippines, Inc. v. City of Manila, The City of Manila v. Coca-Cola Bottlers, Inc.* and *City of Manila v. Coca-Cola Bottlers, Inc.* that Ordinance Nos. 7988 and 8011 are invalid. **This Court is simply pointing out the rule that claims for refunds are the exception, rather than the rule, and that each claim for refund, in order to be granted, must be proceeded in accordance with the manner set forth by law.** After all, in every claim for refund of taxes paid, the burden is on the taxpayer to show that he has strictly complied with the conditions for the grant of the tax refund or credit." (*Boldfacing and underscoring supplied*)

In the aforecited case, the Supreme Court ruled that the claim for refund of petitioner China Banking Corporation should be dismissed not only for being filed out of time but also **for not being filed before a court of competent jurisdiction**.

Respondent insists that the subject matter of the case filed before the RTC is one which is not capable of pecuniary estimation as it is an action for specific performance.

In determining whether a case is one the subject matter of which is not capable of pecuniary estimation, the nature of the principal action or remedy sought must be ascertained. If the remedy sought is primarily for the recovery of a sum of money, the claim is considered capable of pecuniary estimation, and whether jurisdiction is in the RTC, MeTC, MTC, or MCTC would depend on the amount of money sought to be recovered.

In the present case, the basic issue is whether respondent has the right to recover, by way of refund or credit, the sum of money representing its alleged erroneously or illegally paid tax. The amount sought to be recovered is certainly capable of pecuniary estimation. To be specific, the Petition for Refund filed by respondent before the RTC reveals that the amount being claimed for refund is only ₱264,261.84, which is below the jurisdictional amount of the RTC of Manila. Thus, the RTC of Manila has no jurisdiction over the subject matter of the case.

In fine, considering that the RTC of Manila was bereft of authority to resolve respondent's Petition for Refund, the only power left with it was to dismiss respondent's claim for lack of jurisdiction.

WHEREFORE, premises considered, the Petition for Review filed by the Treasurer of the City of Manila is hereby **GRANTED**. The Decision dated June 15, 2017 and the Order dated January 15, 2018 by the Regional Trial Court of Manila, Branch 55 and all proceedings therein are hereby **DECLARED NULL AND VOID**. Respondent's Petition for Refund filed with the Regional Trial Court of Manila, Branch 55, in Civil Case No. 09-120696, entitled *Swedish Match Philippines, Inc. vs. The Treasurer of the City of Manila,* is **DISMISSED** for lack of jurisdiction.

SO ORDERED.

ROMAN G. DEL ROSARIO
Presiding Justice

WE CONCUR:

ERLINDA P. UY
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO-GRULLA
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

ROMAN G. DEL ROSARIO
Presiding Justice